

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

TODD WOLF,

Plaintiff

CASE NO. 23-CV-149

v.

CITY OF SHEBOYGAN, ET AL.,

Defendants

DEFENDANT MAYA HILTY’S MOTION TO DISMISS

Defendant Maya Hilty (“Hilty”), by her attorneys, Godfrey & Kahn, S.C., and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, moves to dismiss Plaintiff Todd Wolf’s conspiracy claim brought against Hilty because Plaintiff’s Complaint fails to state a claim upon which relief can be granted.

Plaintiff’s Complaint alleges one claims against Hilty, labelled Conspiracy to Violate Mr. Wolf’s Fourteenth Amendment Due Process Rights (Property). Plaintiff’s claim against Hilty should be dismissed because the Complaint fails to satisfy the requirements of a Section 1983 conspiracy claim. Plaintiff’s Complaint fails to plausibly allege that Hilty reached an understanding with state officials to deprive him of his constitutional rights and that Hilty was a willful participant in joint activity with city officials to violate his due process right. To the extent that Plaintiff’s conspiracy claim also includes an allegation that Hilty conspired to slander and stigmatize him, that claim also fails as a matter of law as words giving rise to such a claim must come from the mouth of a public official.

To the extent Plaintiff's claim against Hilty is to be construed as one for a declaratory judgment that that she conspired to violate his due process rights, Hilty incorporates by reference the City defendants' argument that Plaintiff's claim for declaratory judgment in relation to Claim Four should be dismissed because a declaratory judgment is inappropriate where there is no claimed continuing violation of federal law or any threat of future violation. (*See* ECF Dkt. 29 at 27).

Finally, Hilty incorporates by reference Defendant Hill's argument that Wolf's claim should also be dismissed because he did not have a constitutionally protected interest in his employment. (*See* ECF Dkt. 33 at 11-15.)

In support of her Motion, Hilty relies on her Brief in Support of Motion to Dismiss filed simultaneously with this Motion.

WHEREFORE, Hilty requests an order dismissing the claim against her in its entirety and granting such other relief as the Court deems appropriate.

Dated this 3rd day of April, 2023

GODFREY & KAHN, S.C.

s/Brian C. Spahn

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